

that will meet the Department's need to safeguard against a biased work product and an unfair competitive advantage. To this end, the organizational conflicts of interest clause in the management and operating contract shall require a disclosure of interests substantially similar to the one at 48 CFR 952.209-8 and inclusion of a clause substantially similar to the one at 48 CFR 952.209-72 in each subcontract for advisory and assistance services expected to exceed the simplified acquisition threshold, determined in accordance with FAR part 13.

9. Subsection 970.5204-44 is amended by revising clause paragraph (b)(15) to read as follows:

970.5204-44 Flowdown of contract requirements to subcontracts.

* * * * *

Flowdown of Contract Requirements to Subcontracts (Oct 1995)

* * * * *

(b) * * *

(15) Organizational Conflicts of Interest. Clause at DEAR 952.209-72 in accordance with DEAR 970.0905.

* * * * *

[FR Doc. 96-19797 Filed 8-5-96; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 361, 362, 363, 364, 385, 386 and 391

[FHWA Docket No. MC-96-18]

RIN 2125-AD64

Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties; Extension of Comment Period

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The FHWA announces the extension of the comment period for its April 29, 1996, notice of proposed rulemaking (NPRM) in which the agency proposed changes to our procedural rules governing investigations of motor carrier compliance with agency regulations, penalty assessments and adjudications, safety ratings, and driver qualifications. The FHWA has determined this extension is necessary in response to requests from members of the affected public for additional time to review and

comment on this broad rulemaking proposal. The comment period is extended to September 13, 1996.

DATES: Comments must be received on or before September 13, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-96-18, FHWA, Office of the Chief Counsel, HCC-10, Room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope. **FOR FURTHER INFORMATION CONTACT:** Paul Brennan, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On April 29, 1996 (61 FR 18866), the FHWA published a NPRM (Docket MC-96-18) that requested comments on its proposal to revise and amend procedural rules relating to the exercise of the agency's authority to investigate compliance with the various regulations subject to its jurisdiction; to assess penalties and to adjudicate claims for violations of these regulations; to assign safety ratings to carriers; to determine driver qualifications and other matters involving formal and informal proceedings. The FHWA proposed the creation of four new parts in chapter III of Title 49 of the Code of Federal Regulations, replacing 49 CFR Part 385, 386 and a portion of Part 391. The FHWA heard reports from the affected public that because of the broad scope of the proposal, more time was needed to file meaningful comments.

On December 29, 1995, the Interstate Commerce Commission Termination Act was enacted, which transferred certain residual functions of the ICC to the Department of Transportation, some of which were delegated to the FHWA. The FHWA will be proposing to supplement its April 29, 1996 NPRM to integrate procedural aspects of its inherited ICC function into the proposed procedural rule. The extension of time should be sufficient to accommodate consideration of the supplemental NPRM, which will be issued in the near future.

The FHWA is mindful of the need for all interested parties to have enough time to prepare relevant and useful comments. The FHWA therefore is extending the deadline for submitting

comments on Docket MC-96-18 an additional 45 days. As indicated in the Rulemaking Analyses and Notices section of the NPRM, all comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will continue to file relevant information in the docket as it becomes available after the comment closing date, and interested parties should continue to examine the docket for new materials.

Authority: 49 U.S.C. chapters 5, 51, 59, 311, 313, 315; and 49 CFR 1.48.

Issued on: July 26, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96-19916 Filed 8-1-96; 2:58 pm]

BILLING CODE 4910-22-P

49 CFR PART 393

[FHWA Docket No. MC-94-1]

RIN 2125-AD27

Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: This document announces the FHWA's intent to issue a notice of proposed rulemaking to establish requirements for the use of retroreflective sheeting or reflex reflectors for certain trailers manufactured prior to December 1, 1993, the effective date of the National Highway Traffic Safety Administration's final rule on conspicuity for newly manufactured trailers.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor or Mr. Richard H. Singer, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1994 (59 FR 2811), the FHWA published an advance notice of

proposed rulemaking to solicit comments concerning measures for reducing the incidence and severity of collisions during periods of darkness or reduced visibility. The FHWA requested that commenters address the specific questions listed below.

1. Many motor carriers have been using retroreflective sheeting or reflex reflectors which are not of the colors, retroreflective intensity, width, or configuration of the conspicuity treatment in the NHTSA's final rule. The FHWA seeks information on the type of conspicuity treatments in use and quantitative data on the cost and effectiveness of those treatments in preventing and/or mitigating accidents.

2. What types of technical problems (e.g., tape not adhering to the surface of the trailer) have motor carriers encountered when applying conspicuity materials to in-service trailers? Are any problems unique to certain types of trailers, or to certain types of paints, coatings, or surfaces?

3. What is the approximate cost (parts and labor) to apply conspicuity treatments to trailers? Is special training required for employees performing this task? What cost differences may exist between having this task performed by the motor carrier's own maintenance department or by third parties?

4. How long must a trailer be taken out of service to have the conspicuity material applied to its surfaces?

5. With regard to conspicuity treatments that differ from those in the NHTSA final rule, a retrofitting requirement would result in many motor carriers having to replace their current conspicuity treatments with one that is consistent with the requirements of FMVSS No. 108. The FHWA believes that some form of conspicuity treatment (even certain forms which may be less effective than that covered in the NHTSA's final rule) is better than no conspicuity treatment. What different types of conspicuity treatment are currently being used by motor carriers? What results have been experienced by motor carriers using conspicuity treatments?

6. If this rulemaking proceeds, should the FHWA propose requiring the same red/white color combination, retroreflective intensity, width and configuration as the NHTSA's final rule, or should alternative requirements be considered? If alternatives are considered, do commenters foresee problems in the enforcement of a retrofitting requirement?

7. If this rulemaking proceeds, should the FHWA consider an effective date which is several (2, 3, 4, or 5) years after the date of publication of the final rule?

Commenters were also encouraged to include a discussion of any other issues that the commenters believe are relevant to the rulemaking.

Analysis of Docket Comments

The FHWA received more than 900 comments in response to the ANPRM. The FHWA is not providing a detailed discussion of the docket comments at this time. However, an in-depth discussion of the comments will be presented in the notice of proposed rulemaking (NPRM). Therefore, the following is only a summary of the comments intended to provide interested parties with an indication of the type of responses the FHWA received.

Support for a Retrofitting Requirement

The rulemaking has its strongest support from concerned citizens on behalf of friends and relatives who suffered fatal injuries as a result of passenger car side or rear impacts with semitrailers. The FHWA received 321 responses on behalf of Mr. Carl Hall, who was killed in a collision with a tractor-semitrailer that blocked the road as the truck driver backed the vehicle into a driveway. Another 285 responses were on behalf of Mr. Guy Crawford, a 16-year old boy who was killed in an underride accident with a coal truck. In addition, the agency received 223 responses from other concerned citizens, many of whom lost family members or friends in accidents involving commercial motor vehicles (CMVs).

The rulemaking was also supported by the Advocates for Highway and Auto Safety, Citizens for Reliable and Safe Highways, and the Insurance Institute for Highway Safety.

Two members of the House of Representatives submitted letters in support of the rulemaking: James Greenwood (Eighth district of Pennsylvania) and Marjorie Margolies-Mezvinsky (then representing the Thirteenth Congressional district of Pennsylvania). The FHWA has also received correspondence from Senator Frank Lautenberg (NJ) expressing support for a retrofitting requirement.

As for industry support, the Owner-Operator Independent Drivers Association stated that better conspicuity would significantly reduce the likelihood of side and rear collisions. Schneider National (Schneider), one of the larger motor carriers in the United States, Contract Freighters, Inc., a motor carrier with 3,500 trailers, and Ryder Commercial Leasing and Services also support a retrofitting requirement. Schneider

indicated that it has been using conspicuity treatments on all of its trailers since 1988 while Contract Freighters has been using conspicuity treatments since 1986.

Opposition to a Retrofitting Requirement

The American Trucking Associations (ATA), National Private Truck Council (NPTC) and numerous fleets indicated that retrofitting reflective material is not feasible for older trailers because the surfaces on those vehicles may require preparation (removal of oxidation, rust, etc.) to ensure that the conspicuity material adheres to the trailer. Further, the ATA and numerous fleets expressed concern about the loss in revenues that will be incurred while the trailer is being retrofitted. The ATA believes it could cost as much as \$1,400 to retrofit some trailers. Other commenters provided estimates that were significant on a cost-per-trailer basis but generally lower than the ATA estimate.

The NPTC stated that a retrofitting requirement would pose a significant cost burden with very little evidence of benefit in terms of reduced accidents. The NPTC also indicated that many private fleets have a considerable financial investment in specially developed graphics packages and that it would be inappropriate for the FHWA to propose a retrofitting standard that would require fleets to replace their existing reflective designs or logos with a mandated conspicuity treatment.

FHWA Intent

The FHWA has determined that a notice of proposed rulemaking (NPRM) should be issued to propose requiring that each trailer with an overall width of 2,032 millimeters (80 inches) or more and with a gross vehicle weight rating greater than 4,536 kilograms (10,000 pounds), manufactured prior to December 1, 1993, be equipped with retroreflective material. The FHWA recognizes the technical and economic concerns of commenters opposed to a retrofitting requirement. However, the Agency believes that based upon the information currently available, retrofitting of trailers with conspicuity treatments will provide significant safety benefits. Further, this action appears to be cost-effective and technically feasible.

The FHWA has completed a preliminary benefit/cost analysis to compare the projected safety benefits of a retrofitting requirement to the potential economic impact on the motor carrier industry. Three key issues were considered in determining whether to issue a notice of proposed rulemaking.

The first issue is the time and labor required to install retroreflective material to older vehicles. The surfaces of many of the older trailers will require preparation (e.g., removal of oxidation, pre-treating surfaces, etc.) to ensure that the retroreflective tape adheres to the surface of the trailer. In many cases the trailer will have to be removed from revenue service to complete the retrofit. A retrofitting requirement should allow carriers sufficient time—a phase-in period—to complete the retrofit at routine maintenance intervals. The FHWA believes the total cost (conspicuity material, labor, and loss in revenues while the trailer is being retrofitted) for retrofitting a 45–53 foot trailer is only a fraction of the ATA's estimate.

The second issue is the voluntary use of retroreflective material on older trailers by certain fleets. A large number of fleets have been using conspicuity treatments on their trailers since the mid-1980's. Unfortunately many of the color schemes, as well as the levels of reflectivity of the tape used on the older trailers are not consistent with the NHTSA requirements for trailers manufactured on or after December 1, 1993. If these motor carriers are required to replace the retroreflective materials that they voluntarily installed to improve safety, it could be perceived as penalizing motor carriers that demonstrated an extra level of safety consciousness. This could have the unintended effect of discouraging motor carriers from exploring innovative approaches to improving safety.

The third issue concerns the projected safety benefits of trailer conspicuity material that meets the NHTSA requirement. The NHTSA estimates that retroreflective tape could lead to a 25 percent reduction in rear end collisions and a 15 percent reduction in side impact collisions. From data available at the time of the NHTSA's final rule implementing conspicuity enhancements, tractor-trailer combinations were involved annually in about 11,000 accidents in which they were struck at the side or rear at night. Within this group of accidents, about 8,700 injuries and about 540 fatalities occurred. The NHTSA indicated that the conspicuity treatments, when fully implemented, is expected to prevent, annually, 2,113 of these accidents. The NHTSA estimated 1,315 fewer injuries and about 80 fewer fatalities would occur.

In 1994 there were an estimated 96,938 accidents in which one commercial motor vehicle and one passenger car were involved. All of these accidents resulted in a fatality,

injury, or one of the vehicles incurring damage severe enough to require that the vehicle be towed from the accident scene. In 51,319 (52.9 percent) of these accidents the CMV was a combination vehicle—a truck or truck-tractor, towing one or more trailers.

Of the 51,319 collisions between a passenger car and a combination vehicle, 11,176 cases involved the passenger car rear-ending the trailer (daytime and nighttime accidents). It is estimated that there were more than 4,100 injuries. Collisions between passenger cars and the side of the trailer accounted for 27,764 accidents (daytime and nighttime).

With regard to fatalities, the NHTSA's Fatal Accident Reporting System data for 1994 indicate there were 2,785 fatal accidents involving one commercial motor vehicle and one passenger car. In 1,885 of these fatal accidents, the commercial motor vehicle was a combination vehicle. Of the 1,885 fatal accidents between a passenger car and a combination vehicle, 314 cases involved the passenger car rear-ending the trailer. The result was 369 fatalities (compared to 171 fatalities for 161 cases in which a passenger car rear-ended a single-unit commercial motor vehicle). Collisions in which the passenger car struck the side of a trailer at an angle accounted for 816 incidents resulting in a total of 982 fatalities. Fatal accidents in which the passenger car struck the side of a single-unit commercial motor vehicle occurred 382 times resulting in a total of 474 fatalities. All of these are a combination of day and night occurrences.

Considering the magnitude of the problem of passenger cars colliding with tractor-trailer combination vehicles, the FHWA believes that a retrofitting requirement will result in a major improvement in safety by reducing both the incidence and severity of a significant percentage of these accidents.

The FHWA has carefully examined a variety of issues, such as those mentioned, and determined that the projected safety benefits in terms of accidents prevented and lives saved, outweigh the economic burden on the motor carrier industry.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures.

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation

regulatory policies and procedures. The FHWA has prepared a preliminary evaluation of the economic impact of the regulatory changes being considered in this rulemaking and will present that information in the NPRM to be published at a later date. Based upon the information received in response to the NPRM, the FHWA will carefully consider the costs and benefits associated with establishing a conspicuity retrofitting requirement. Comments, information, and data will be solicited on the economic impact of establishing retrofitting requirements.

Regulatory Flexibility Act

The FHWA will evaluate the effects of the regulatory changes on small entities. Based upon the information received in response to the NPRM, the FHWA will, in compliance with the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 601-612), consider the economic impacts of these potential changes on small entities. The FHWA will solicit comments, information, and data on these impacts.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. 31136, 31502; 49 CFR 1.48

Issued on: July 26, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96-19917 Filed 8-5-96; 8:45 am]

BILLING CODE 4910-22-P

National Highway Traffic Safety Administration**49 CFR Part 571**

[Docket No. 74-14; Notice 100]

RIN 2127-AG14

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to NHTSA's occupant crash protection standard and child restraint standard to reduce the adverse effects of air bags, especially those on children. Eventually, either through market forces or government regulation, NHTSA expects that smart passenger-side air bags will be installed in passenger cars and light trucks to mitigate these adverse effects. For purposes of this document, the agency considers smart air bags to include any system that automatically prevents an air bag from injuring the two groups of children that experience has shown to be at special risk from air bags: infants in rear-facing child seats, and children who are out-of-position (because they are unbelted or improperly belted) when the air bag deploys.

The agency is proposing that vehicles without smart passenger-side air bags would be required to have new, attention-getting warning labels and permitted to have a manual cutoff switch for the passenger-side air bag. By limiting the labeling requirement to vehicles without smart air bags, NHTSA hopes to encourage the introduction of

the next generation of air bags as soon as possible. NHTSA proposes to define smart air bags broadly to give manufacturers flexibility in making design choices. The agency is specifically requesting comments concerning whether it should require installation of smart air bags and, if so, on what date such a requirement should become effective. NHTSA is also requesting comments on whether it should, as an alternative, set a time limit on the provision permitting manual cutoff switches in order to assure the timely introduction of smart air bags.

NHTSA is also proposing to require rear-facing child seats to bear new, enhanced warning labels.

Finally, this document discusses the agency's research on other air bag issues, such as research on technology to reduce arm and other injuries to drivers.

DATES: Comments must be received by September 20, 1996.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.—4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Stephen R. Kratzke, Office of Safety Performance Standards, NPS-31, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Mr. Kratzke can be reached by telephone at (202) 366-5203 or by fax at (202) 366-4329.

For legal issues: J. Edward Glancy, Office of Chief Counsel, NCC-20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Mr. Glancy can be reached by telephone at (202) 366-2992 or by fax at (202) 366-3820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview and Summary.
- II. Existing Requirements for Air Bags.
- III. Agency Monitoring of Air Bag Effectiveness.
- IV. Actions by NHTSA to Improve Air Bag Safety.
- V. November 1995 Request for Comments.
- VI. Summary of Comments.
 - A. Smart Bags.
 - B. Tag Systems.
 - C. Improvements to Labeling.
 - D. Manual Cutoff Switches.
 - E. Other Issues.
- VII. Proposal.
 - A. Summary.
 - B. Defining Smart Air Bags.

C. Possibility of Mandating Smart Passenger Air Bags and Timing of a Mandate.

D. New Warning Label Requirements for Vehicles Which Lack Smart Passenger-side Air Bags.

1. Child Seat Labels.
 2. Label on Passenger-Side End of Vehicle Dash or Door Panel.
 3. Label on Sun Visor.
 4. Label in the Middle of the Dash Panel.
 5. Possible Sun Visor Labeling Requirement for Vehicles With Smart Passenger-side Air Bags.
 6. Leadtime and Costs.
- E. Manual Cutoff Switch Option for Vehicles Which Lack Smart Passenger-side Air Bags.

VIII. Future Agency Considerations.

IX. Rulemaking Analyses and Notices.

- A. Executive Order 12866 and DOT Regulatory Policies and Procedures.
- B. Regulatory Flexibility Act.
- C. National Environmental Policy Act.
- D. Executive Order 12612 (Federalism).
- E. Civil Justice Reform.

X. Comments.

I. Overview and Summary

While air bags are providing significant overall safety benefits, NHTSA is very concerned that current designs have adverse effects in some situations. Of particular concern, NHTSA has identified 21 relatively low speed crashes in which the deployment of the passenger-side air bag resulted in fatal injuries to a child. NHTSA believes that these children would not have died if there had been no air bag.

All of these deaths occurred under circumstances in which the child's upper body was very near the air bag when it deployed. The children sustained fatal head or neck injuries, as a result of the deploying air bag. Six of these deaths involved infants in rear-facing child seats, where the infant's head was located very near the instrument panel and the air bag. The 15 other children appear to have been unbelted or improperly belted (e.g., wearing only the lap belt with the shoulder belt behind them) at the time of the crash. During pre-impact braking, these children slid or leaned forward so that they were too close to the instrument panel and air bag at the time of deployment.

The most direct solution to the problem of child fatalities from air bags is for children to be properly belted and placed in the back seat. This necessitates increasing the percentage of children who are properly restrained by child safety seats and improving the current 67 percent rate of seat belt usage by a combination of methods, including the encouragement of State primary seat belt laws. The most direct technical solution to the problem of child fatalities from air bags is the